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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

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PATRICK BRADY, et al.	:	Civil Action No. 02-2917 (JEI)
Plaintiffs,	:	
	:	
v.	:	
	:	
AIR LINE PILOTS ASSOCIATION,	:	
INTERNATIONAL,	:	
	:	
Defendant.	:	
	:	

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PLAINTIFFS' BRIEF IN SUPPORT OF MOTION TO APPROVE CLASS NOTICE AND  
REQUEST FOR INFORMATION, AND PLAN FOR DISSEMINATION OF CLASS NOTICE

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DATED: September 18, 2012

## ARGUMENT

Through this motion, Plaintiffs seek an Order approving the form of Class Notice and Request for Information, attached as Exhibit A, along with the proposed plan for dissemination of this Class Notice.

In order to prove damages in this phase of the litigation, Plaintiffs will be required to set off their claimed monetary damages with actual employment earnings for each pilot per year, stemming from ALPA's breach of its duty of fair representation to the former TWA Pilots.

Class Counsel has actual income earnings for those former TWA Pilots that were never furloughed following ALPA's breach of its duty of fair representation, but instead continued employment as a pilot with American Airlines. Accordingly, for those non-furloughed pilots, the Class Notice is designed only to provide them with an update as to the status of the litigation.

For those pilots who were furloughed at any point after April 2001, however, Class Counsel will need to obtain actual income earnings from each class member. The proposed form of Class Notice and Request for Information not only provides class members with an update on the status of the litigation, but also requests detailed information from each of the furloughed pilots as to their yearly employment income earnings. *See Exhibit A.* The information sought by Class Counsel will enable Plaintiffs and their experts to calculate actual damages for each and every Class Member.

More specifically, each Class Member who was furloughed at any point after April of 2001 will be asked to fill out the Questionnaire attached to the Class Notice, to sign a Certification attesting to the truth of the answers provided, and to provide documentary support for the income earnings in the form of federal income tax returns, W2 and 1099 forms for each year they were on furlough. *See Exhibit A.* Class members are required to return the information to Class Counsel no later than sixty (60) days from the date of the Court's Order approving the form of Notice. The Class Notice clearly advises each class

member that failure to provide the requested information in a timely manner may result in a forfeiture of their ability to collect damages.

Consistent with due process and Rule 23, Plaintiffs propose a plan for dissemination of the Class Notice and Request for Information designed to reach the entire Class of approximately 2300 Class Members. Notice will be mailed by regular, first class mail to all class members whose addresses will be updated in the National Change of Address database for updating and accuracy. The mailing will take place within thirty (30) days from the date of the Court's Order approving the Class Notice. This direct mail notice will be supplemented by publication of the Class Notice and Request for Information on [www.twapilot.org](http://www.twapilot.org), a secure website frequently utilized by some members of the certified class. Thus, Plaintiffs' plan of dissemination is adequate and complies with New Jersey practice.

### **CONCLUSION**

The proposed form of notice and plan of dissemination of notice fully comply with Rule 23, due process and practice in similar cases, including notice approved on prior occasions by this Court. Plaintiffs' motion should be granted.

Respectfully submitted,

Dated: September 18, 2012

TRUJILLO RODRIGUEZ & RICHARDS, LLC

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